

**ALISA AGOFONOVA and AARON POU, on
behalf of themselves and all others similarly
situated,**

Plaintiffs,

INDEX NO: 07 CIV 6926 (DAB)

**DECLARATION OF HIRO
MATSUMOTO**

v.

**NOBU CORP.; NOBU ASSOCIATES, L.P.;
NOBU NEXT DOOR, LC; NOBU 57 LLC;
DREW NIEPORENT and RICHARD
NOTAR,**

Defendants.

DECLARATION

I, Hiro Matsumoto under penalty of perjury, swear/affirm as follows:

1. My name is Hiro Matsumoto, I am over 21 years of age.
2. I began working for the Defendants in or around 1996 as a waiter. I still work at Nobu restaurant.
3. I learned about this lawsuit from plaintiff Aaron Pou. Mr. Pou and I had several conversations regarding the details of the lawsuit.
4. Mr. Pou explained that due to my lengthy tenure at the Defendants, it would be very valuable for me to join the case. Also, because Mr. Pou was living in California, he felt that I could take a lead role recruiting other plaintiffs in New York.
5. I contacted Mr. Kirschenbaum in or around August 2007 and had conversations with him regarding the lawsuit.

6. Mr. Kirschenbaum wanted to meet with me, but I felt it was more advantageous to meet with a larger group of people. To that end, I spent countless hours discussing the lawsuit with other employees and attempting to organize a meeting with all of these employees and Mr. Kirschenbaum.
7. In or around September 2007, I, along with 8 or 9 other past and current employees, met with Mr. Kirschenbaum and discussed the case. Approximately 2 to 3 former employees joined the lawsuit at the meeting. Many of the current employees did not join because they were afraid of losing their jobs.
8. Right after the meeting with Mr. Kirschenbaum, I spent significant time convincing additional employees to join the lawsuit. I initially focused on contacting former employees because I knew that many current employees were fearful of being retaliated against.
9. Later, I decided that I should concentrate my efforts on convincing as many current employees as possible to join the lawsuit. I felt that we could make a much greater impact if a significant number of current employees joined at the same time, particularly those current employees who worked at the restaurant for a lengthy period of time.
10. Initially, it was very difficult to convince current employees to join the lawsuit. I thought that the current employees would be more comfortable if they joined the lawsuit together with me and I insisted that we meet with Mr. Kirschenbaum as a group to diffuse individual concerns over retaliation.


11. Part of my efforts resulted in the participation of 2 former employees of the Defendants' New York restaurants who are currently working in management positions for the Defendants in Hawaii. I believe it was critical to secure the participation of these employees, as it sent a strong message to the Defendants and hopefully eased some concerns that current employees had about being retaliated against.
12. Prior to the mediation between the parties, I spoke with as many employees as I could and encouraged them to join the lawsuit.
13. Overall, I estimate that my efforts resulted in more than 20 employees joining the lawsuit, including more than 10 current employees. In fact, I personally delivered to Mr. Kirschenbaum approximately 13-14 consent to join forms. Most of the employees who did not join were in management positions and/or had close ties to owners Drew Nieporent and/or Richard Notar.
14. Overall, I estimate that I had hundreds of conversations and exchanged countless emails to encourage others to join the lawsuit. Moreover, many of these employees contacted me on their own initiative after hearing about the lawsuit from others to ask about the case and the procedures for joining. If any individual had detailed questions that I could not answer, I provided them with Mr. Kirschenbaum's contact information.
15. I believe that I communicated with Mr. Kirschenbaum through phone or email approximately 30 times throughout the course of the lawsuit. These communications typically consisted of asking questions and forwarding

16. It is important to note that all of my conversations with other employees occurred during non-working hours and often on my own personal days off from work. I was fearful of being reprimanded for mentioning the lawsuit while I was working at Nobu. Defendants eventually established a policy to prohibit conversations concerning the lawsuit during work hours.
17. Overall, I spent countless hours contacting numerous individuals concerning this lawsuit. Indeed, over a significant period of time I spent almost every day communicating with current or former employees about the lawsuit.
18. When I spoke with other employees, I made sure to give them my phone number and email address, and I would often receive long-distance calls from former employees located throughout the country.
19. I believe that I suffered retaliation as a result of joining the lawsuit. For instance, defendant Drew Nieporent stopped speaking with me after I joined the lawsuit. It was clear that he was visibly upset by my participation in the lawsuit.
20. I know that other current employees suffered retaliation as a result of joining this lawsuit as well. For example, I know one employee of Nobu whose father and brother also worked for the Defendants. I know that Mr. Nieporent spoke with the employee's father and brother concerning the lawsuit and asked them something to the effect of "how can you do this to

21. I estimate that I spent at least 70 hrs working on this case, and I believe
that my efforts were vital to the successful resolution of the lawsuit.

I affirm, under penalty of perjury, that the above and foregoing information is true
and correct.

Dated: January 29, 2009



Hiro Matsumoto